

ASSEMBLY BILL

No. 951

Introduced by Assembly Member Lieu

February 26, 2009

An act to amend Sections 5378, 5378.5, 5411, 5411.3, 5412, 5412.2, 5413, 5413.5, and 5414 of the Public Utilities Code, relating to charter-party carriers.

LEGISLATIVE COUNSEL'S DIGEST

AB 951, as introduced, Lieu. Charter-party carriers.

The Passenger Charter-Party Carriers' Act, with certain exceptions, prohibits a charter-party carrier of passengers from engaging in transportation services subject to regulation by the Public Utilities Commission without obtaining a specified certificate or permit, as appropriate, from the commission. The act imposes a maximum fine of not more than \$1,000 in its general penalty provision for any violation or failure to comply with the act, an order or other requirement of the commission, or an operating permit or certificate, or aiding and abetting such a violation. The act also imposes maximum fines, and in certain cases, minimum fines for specific violations of the act, including, for operating a charter-party carrier of passengers or a taxicab without a valid certificate or permit, a maximum mandatory fine of \$2,500 for a first conviction, or \$5,000 for a subsequent conviction.

This bill would revise that general penalty to set a minimum fine of \$1,000 and a maximum fine of \$5,000. The bill, for operating a charter-party carrier of passengers or a taxicab without a valid certificate, would set a minimum fine of \$1,500 and a maximum fine of \$5,000 for a first conviction, or \$1000,000 for a subsequent conviction. The bill

would also increase a number of other existing fines penalties for specific violations of the act.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 5378 of the Public Utilities Code is
2 amended to read:
3 5378. (a) The commission may cancel, revoke, or suspend any
4 operating permit or certificate issued pursuant to this chapter upon
5 any of the following grounds:
6 (1) The violation of any of the provisions of this chapter, or of
7 any operating permit or certificate issued thereunder.
8 (2) The violation of any order, decision, rule, regulation,
9 direction, demand, or requirement established by the commission
10 pursuant to this chapter.
11 (3) The conviction of the charter-party carrier of passengers of
12 any misdemeanor under this chapter while holding operating
13 authority issued by the commission or the conviction of the carrier
14 or its officers of a felony while holding operating authority issued
15 by the commission, limited to robbery, burglary, larceny, fraud,
16 or intentional dishonesty for personal gain.
17 (4) The rendition of a judgment against the charter-party carrier
18 of passengers for any penalty imposed under this chapter.
19 (5) The failure of a charter-party carrier of passengers to pay
20 any fee imposed upon the carrier within the time required by law.
21 (6) On request of the holder of the permit or certificate.
22 (7) Failure of a permit or certificate holder to operate and
23 perform reasonable service. That failure may include repeated
24 violations of the Vehicle Code or of regulations contained in Title
25 13 of the California Code of Regulations relative to motor vehicle
26 safety, by employees of the permitholder or certificate holder, that
27 support an inference of unsafe operation or willful neglect of the
28 public safety by the permitholder or certificate holder.
29 (8) Consistent failure of the charter-party carrier of passengers
30 to maintain its vehicles in a safe operating condition and in
31 compliance with the Vehicle Code and with regulations contained
32 in Title 13 of the California Code of Regulations relative to motor
33 vehicle safety, as shown by the records of the commission, the

1 Department of Motor Vehicles, the Department of the California
2 Highway Patrol, or the carrier.

3 (9) The knowing and willful filing of a false report that
4 understates revenues and fees.

5 (b) The commission may levy a civil penalty of up to ~~five~~
6 ~~thousand dollars (\$5,000)~~ *one hundred thousand dollars (\$100,000)*
7 upon the holder of an operating permit or certificate issued pursuant
8 to this chapter, for any of the grounds specified in subdivision (a),
9 as an alternative to canceling, revoking, or suspending the permit
10 or certificate. The commission may also levy interest upon the
11 civil penalty, which shall be calculated as of the date on which the
12 civil penalty is unpaid and delinquent. The commission shall
13 deposit at least monthly all civil penalties and interest collected
14 pursuant to this section into the General Fund.

15 SEC. 2. Section 5378.5 of the Public Utilities Code is amended
16 to read:

17 5378.5. (a) Upon receipt of a written recommendation from
18 the Department of the California Highway Patrol that the certificate
19 or permit of a charter-party carrier be suspended either (1) for
20 failure to maintain any vehicle used in transportation for
21 compensation in a safe operating condition or to comply with the
22 Vehicle Code or with regulations contained in Title 13 of the
23 California Code of Regulations relative to motor carrier safety if
24 that failure is either a consistent failure or presents an imminent
25 danger to public safety, or (2) for failure to enroll all drivers in the
26 pull notice system as required by Section 1808.1 of the Vehicle
27 Code, the commission shall, pending a hearing in the matter
28 pursuant to subdivision (d), suspend the carrier's certificate or
29 permit. The written recommendation shall specifically indicate
30 compliance with subdivision (c).

31 (b) A carrier whose certificate or permit is suspended pursuant
32 to subdivision (a) may obtain a reinspection of its terminal and
33 vehicles by the department, by submitting a written request for
34 reinstatement to the commission and paying a reinstatement fee
35 of ~~one hundred twenty-five dollars (\$125)~~ *two hundred fifty dollars*
36 *(\$250)*. The commission shall deposit all reinstatement fees
37 collected pursuant to this subdivision in the Public Utilities
38 Commission Transportation Reimbursement Account. The
39 commission shall then forward a request for reinspection to the
40 department which shall then perform a reinspection within a

1 reasonable time. The commission shall reinstate a carrier's
2 certificate or permit suspended under subdivision (a) promptly
3 upon receipt of a written recommendation from the department
4 that the carrier's safety compliance has improved to the satisfaction
5 of the department, unless the certificate or permit is suspended for
6 another reason, or has been revoked.

7 (c) Before transmitting a recommendation pursuant to
8 subdivision (a) to the commission, the Department of the California
9 Highway Patrol shall notify the charter-party carrier in writing of
10 all of the following:

11 (1) That the department has determined that the carrier's safety
12 record is unsatisfactory, furnishing a copy of any documentation
13 or summary of any other evidence supporting the determination.

14 (2) That the determination may result in suspension or
15 revocation of the carrier's certificate or permit by the commission.

16 (3) That the carrier may request a review of the determination
17 by the department within five days of its receipt of the notice
18 required under this subdivision. If a review pursuant to this
19 paragraph is requested by the carrier, the department shall conduct
20 and evaluate that review prior to transmitting any notification to
21 the commission pursuant to subdivision (a).

22 (d) Whenever the commission suspends the certificate or permit
23 of any charter-party carrier pursuant to subdivision (a), the
24 commission shall furnish the carrier written notice of the
25 suspension and shall hold a hearing within a reasonable time, not
26 to exceed 21 days, after a written request therefor is filed with the
27 commission, with a copy thereof furnished to the Department of
28 the California Highway Patrol. At the hearing, the carrier shall
29 show cause why the suspension should not be continued. At the
30 conclusion of the hearing, the commission may, in addition to any
31 other penalty provided in this chapter, terminate the suspension,
32 continue the suspension in effect, or revoke the certificate or
33 permit. The commission may revoke the certificate or permit of
34 any carrier suspended pursuant to subdivision (a) at any time 90
35 days or more after its suspension if the commission has not
36 received a written recommendation for reinstatement from the
37 department and the carrier has not filed a written request for a
38 hearing with the commission.

39 (e) If the commission, after a hearing, finds that a charter-party
40 carrier has continued to operate as such a carrier after its certificate

1 or permit has been suspended pursuant to subdivision (a), the
2 commission shall do one of the following:

3 (1) Revoke the operating certificate or permit of the carrier.

4 (2) Impose upon the holder of the certificate or permit a civil
5 penalty of not less than one thousand *five hundred* dollars ~~(\$1,000)~~
6 ~~(\$1,500)~~ nor more than ~~five seven~~ thousand dollars ~~(\$5,000)~~
7 ~~(\$7,000)~~ for each day of unlawful operations.

8 SEC. 3. Section 5411 of the Public Utilities Code is amended
9 to read:

10 5411. Every charter-party carrier of passengers and every
11 officer, director, agent, or employee of any charter-party carrier
12 of passengers who violates or who fails to comply with, or who
13 procures, aids, or abets any violation by any charter-party carrier
14 of passengers of any provision of this chapter, or who fails to obey,
15 observe, or comply with any order, decision, rule, regulation,
16 direction, demand, or requirement of the commission, or of any
17 operating permit or certificate issued to any charter-party carrier
18 of passengers, or who procures, aids, or abets any charter-party
19 carrier of passengers in its failure to obey, observe, or comply with
20 any such order, decision, rule, regulation, direction, demand,
21 requirement, or operating permit or certificate, is guilty of a
22 misdemeanor and is punishable by fine of *not less than one*
23 *thousand dollars (\$1,000)* and not more than ~~one five~~ thousand
24 dollars ~~(\$1,000)~~ ~~(\$5,000)~~ or by imprisonment in the county jail
25 for not more than three months, or both.

26 SEC. 4. Section 5411.3 of the Public Utilities Code is amended
27 to read:

28 5411.3. Every charter-party carrier of passengers, and every
29 officer, director, agent, or employee of a charter-party carrier of
30 passengers, who displays on any vehicle any identifying symbol
31 other than one prescribed by the commission pursuant to Section
32 5385, or who fails to remove an identifying symbol when required
33 by the commission, is guilty of a misdemeanor and is punishable
34 by a fine of not more than ~~one five~~ thousand dollars ~~(\$1,000)~~
35 ~~(\$5,000)~~, by imprisonment in the county jail for not more than one
36 year, or by both.

37 SEC. 5. Section 5412 of the Public Utilities Code is amended
38 to read:

39 5412. Every corporation or person other than a charter-party
40 carrier of passengers, who knowingly and willfully, either

1 individually, or acting as an officer, agent, or employee of a
2 corporation, copartnership, or any other person other than a
3 charter-party carrier of passengers, violates any provision of this
4 chapter or fails to observe, obey, or comply with any order,
5 decision, rule, regulation, direction, demand, or requirement of
6 the commission, or who procures, aids, or abets any charter-party
7 carrier of passengers in its violation of this chapter, or in its failure
8 to obey, observe, or comply with any such order, decision, rule,
9 regulation, direction, demand, or requirement, is guilty of a
10 misdemeanor, and is punishable by a fine of not more than ~~one~~
11 *five thousand dollars (\$1,000) (\$5,000)* or by imprisonment in the
12 county jail for not more than three months, or both.

13 SEC. 6. Section 5412.2 of the Public Utilities Code is amended
14 to read:

15 5412.2. (a) When a person is convicted of the offense of
16 operating a charter-party carrier of passengers or a taxicab without
17 a valid certificate or permit, in addition to any other penalties
18 provided by law, if the court determines the operator has the ability
19 to pay, the court shall impose a mandatory fine not ~~exceeding two~~
20 *thousand and five hundred dollars (\$2,500) less than one thousand five*
21 *hundred dollars (\$1,500) nor more than five thousand dollars*
22 *(\$5,000)* for a first conviction or ~~five thousand dollars (\$5,000)~~
23 *one hundred thousand dollars (\$100,000)* for a subsequent
24 conviction.

25 (b) As used in this section, “taxicab” means a passenger vehicle
26 designed for carrying not more than eight persons, excluding the
27 driver, and used to carry passengers for hire. “Taxicab” shall not
28 include a charter-party carrier of passengers within the meaning
29 of the Passenger Charter-Party Carriers’ Act, Chapter 8
30 (commencing with Section 5351).

31 SEC. 7. Section 5413 of the Public Utilities Code is amended
32 to read:

33 5413. Every charter-party carrier of passengers and every
34 officer, director, agent, or employee of any charter-party carrier
35 of passengers who violates or who fails to comply with, or who
36 procures, aids, or abets, any violation by any charter-party carrier
37 of passengers of any provision of this chapter, or who fails to obey,
38 observe, or comply with any order, decision, rule, regulation,
39 direction, demand, or requirement of the commission, or of any
40 operating permit or certificate issued to any charter-party carrier

1 of passengers, or who procures, aids, or abets any charter-party
2 carrier of passengers in its failure to obey, observe, or comply with
3 any such order, decision, rule, regulation, direction, demand,
4 requirement, or operating permit, or certificate, is subject to a
5 penalty of not more than ~~one~~ *two* thousand dollars ~~(\$1,000)~~
6 *(\$2,000)* for each offense.

7 SEC. 8. Section 5413.5 of the Public Utilities Code is amended
8 to read:

9 5413.5. (a) Whenever the commission, after hearing, finds
10 that any person or corporation is operating as a charter-party carrier
11 of passengers, including a charter-party carrier operating a
12 limousine, without a valid certificate or permit, or fails to include
13 in any written or oral advertisement the number of the certificate
14 or permit required by Section 5386, the commission may impose
15 a fine of not more than ~~five thousand dollars (\$5,000)~~ *seven*
16 *thousand five hundred dollars (\$7,500)* for each violation. The
17 commission may assess the person or corporation an amount
18 sufficient to cover the reasonable expense of investigation incurred
19 by the commission. The commission may assess interest on any
20 fine or assessment imposed, to commence on the day the payment
21 of the fine or assessment becomes delinquent. All fines,
22 assessments, and interest collected shall be deposited at least once
23 each month in the General Fund.

24 (b) Whenever the commission, after hearing, finds that any
25 person or corporation is operating a charter-party carrier of
26 passengers as a taxicab without a valid certificate or permit in
27 violation of an ordinance or resolution of a city, county, or city
28 and county, the commission may impose a fine of not more than
29 ~~five thousand dollars (\$5,000)~~ *seven thousand five hundred dollars*
30 *(\$7,500)* for each violation. The commission may assess the person
31 or corporation an amount sufficient to cover the reasonable expense
32 of investigation incurred by the commission. The commission may
33 assess interest on any fine or assessment imposed, to commence
34 on the day the payment of the fine or assessment becomes
35 delinquent. All fines, assessments, and interest collected shall be
36 deposited at least once each month in the General Fund.

37 SEC. 9. Section 5414 of the Public Utilities Code is amended
38 to read:

39 5414. Every corporation or person other than a charter-party
40 carrier of passengers who knowingly and willfully, either

1 individually, or acting as an officer, agent, or employee of a
2 corporation, copartnership, or any other person other than a
3 charter-party carrier of passengers, violates any provision of this
4 chapter or fails to observe, obey, or comply with any order,
5 decision, rule, regulation, direction, demand, or requirement of
6 the commission, or who procures, aids, or abets any charter-party
7 carrier of passengers in its violation of this chapter, or in its failure
8 to obey, observe, or comply with any such order, decision, rule,
9 regulation, direction, demand, or requirement, is subject to a
10 penalty of not more than ~~one~~ *two* thousand dollars ~~(\$1,000)~~
11 *(\$2,000)* for each offense.

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